IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

OP.No. 5405 of 2002(R)

PETITIONER:

NAGARAJAN M., S/O.V.MUTHURAJAN,
AGED 52, RESIDING AT FLAT NO.1, MARUTHI ENCLAVE
NO.5, 15TH STREET, MANGANALLOOR, CHENNAI-600 061.

BY ADV. SRI.G.S.REGHUNATH.

RESPONDENTS:
----

1. **STATE BANK OF TRAVANCORE,**
   HEAD OFFICE, POOJAPPURA, TRIVANDRUM,
   REPRESENTED BY ITS MANAGING DIRECTOR.

2. **THE CHIEF MANAGER (PPG),**
   STATE BANK OF TRAVANCORE, HEAD OFFICE,
   POOJAPPURA, TRIVANDRUM.

BY ADV. SRI.M.PATHROSE MATHAI,
SRI.SAJI VARGHESE.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO. 9505/2002 IN O.P. NO. 5405/2002

DISMISSED

14/06/2007. SD/-THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CIRCULAR DTD. 23/04/1994 ALONG WITH ANNEXURE-A1 AND A2.

EXT.P.2: COPY OF THE OPTION LETTER SUBMITTED BY THE PETITIONER.

EXT.P.3: COPY OF THE CIRCULAR NO. 46/94 DTD. 03/06/1994 ALONG WITH ANNEXURE-A1.

EXT.P.4: COPY OF THE REVISED OPTION SUBMITTED BY THE PETITIONER IN OCTOBER, 1994.

EXT.P.5: COPY OF THE CIRCULAR ISSUED BY THE R.1. ON 02/04/1997.

EXT.P.6: COPY OF THE RELEVANT PAGES OF THE REGISTER KEPT BY STATE BANK OF TRAVANCORE, PUTHENCHANTHA BRANCH.

EXT.P.7: COPY OF THE STATEMENT SENT BY TRIVANDRUM, PUTHENCHANTHA BRANCH FOR 1997 TO THE HEAD OFFICE.

EXT.P.8: COPY OF THE LAST PAY CERTIFICATE ISSUED BY THE CHENNAI MAIN BRANCH.

EXT.P.9: COPY OF THE CERTIFICATE SEND FROM MOUNT ROAD BRANCH TO OCHIRA BRANCH.

EXT.P.10: COPY OF THE LETTER DTD. 06/04/2001 SENT BY THE PETITIONER TO THE R.1.

EXT.P.11: COPY OF THE LETTER DTD. 14/08/2001 SENT BY THE R.2.

EXT.P.12: COPY OF THE LETTER DTD. 17/09/2001 ISSUED BY THE PETITIONER THROUGH HIS ADVOCATE.

EXT.P.13: COPY OF THE REPLY DTD. 29/09/2001 ISSUED BY THE R.2.

O.P. NO. 5405/2002:

EXT.P.14: COPY OF THE LETTER DTD. 13/10/2001 ISSUED BY THE PETITIONER THROUGH HIS ADVOCATE.

EXT.P.15: COPY OF THE LETTER DTD. 13/11/2001 SENT BY THE R.2.

EXT.P.16: COPY OF THE LETTER DTD. 09/01/2002 SENT BY THE PETITIONER.

EXT.P.17: COPY OF THE OPTION LETTER KEPT BY THE BRANCH MANAGER, BASANTH NAGAR, CHENNAI.

//TRUE COPY//

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.5405 of 2002-R

= =

Dated this the 14th day of June, 2007.

JUDGMENT

The petitioner, at one point of time, was the Manager of Puthenchantha Branch of the State Bank of Travancore. He, thereafter, was shifted to Oachira Branch and later on, moved to a branch in Chennai. By Ext.P1, the staff of the Bank were called upon to exercise option for a pensionable service. An outer time limit of six months from the commencement of the month on which Ext.P1 was issued, was provided for exercising option. It appears that thereafter, the Bank noticed that the format prescribed by it for exercising option was faulty and accordingly, issued Ext.P3 issuing a new format on which the employees were to exercise their option. It is the case of the petitioner that following Ext.P1, he exercised his option and following Ext.P3, he exercised yet another option. There is considerable conflict as to whether the petitioner had exercised option at all. This is because, the Pension Division of the Head Office of the Bank takes the stand that his option is not available

in the records of the Bank and therefore, he had not exercised the option. It is further pointed out by the learned Senior Counsel for the Bank that the option should have been exercised in quadruplicate and that it should have been available with the Controlling Officer also. It is also pointed out on behalf of the Bank that even going by the dates which are shown to be noticed on Exts.P2 and P4 which are the alleged copies of the petitioner's propounded options, the story of the petitioner cannot be believed. That is, because, the date in Ext.P2 contradicts the statement in that regard in the petitioner's letter issued to the Bank and because, the date of Ext.P4 is beyond six months, going by the outer limit fixed in Ext.P1. But then, it has also to be considered as to whether the Bank had treated the outer limit fixed as per Ext.P1 as the cut off date. Still further, could the Bank insist on the same cut off date when it had issued Ext.P3 modifying the format in which the option has to be exercised? The petitioner has a further case that as a matter of fact, options exercised by different employees were received and acted upon by the Bank.

2. In spite of all the facts noticed above, it is quite surprising for this Court to notice that the petitioner has

produced Exts.P6, P7, P8 and P9 whereby it is apparently attempted to be shown that the petitioner was treated as one who had opted into the Pension Scheme while he was in Puthenchantha Branch, in Oachira Branch and in Branch in Chennai. The stand taken in the impugned order by the Chief Manager in the Pension Division is that those actions, if at all, had been taken by the above Branch Offices without reference to the files of the Head Office. It does not appear to be a sound administrative situation to be accepted, to say that the different branches of one of the prime banking organisations in India, that too, a statutory bank, had been doing things at their whims and fancies and were away from the relevant files of the Head Office.

3. If ultimately the entire materials on record and the files of the Head Office, as also reliable files of the Branches lead to any particular administrative situation, as noticed above, it is firstly for the Bank to take corrective measure through the Officers at the superior supervisory level and not for this Court to embark upon an adjudication between any conflict in the records of the Head Office and the Branches.

4. It is also pointed out by the learned counsel for the petitioner that it was only on 17-11-2001 that the entire PF

contribution by the petitioner and the employer had been sent to him and that itself will destroy the case of the Bank.

5. In the aforesaid premise, without expressing anything on merits, this writ petition is disposed of directing that the concerned General Manager of the State Bank of Travancore will look into all the relevant files, having a bearing on this episode and take a final decision after giving the petitioner an opportunity of being heard. Since the amount of PF given to him has not been accepted by him and because he is a retired employee, such action shall be finalised within three months from the date of receipt of a copy of this judgment.

In the interregnum, without prejudice to whatever decision the Bank may take in the matter, the employee's contribution towards PF, as regards the petitioner, shall be released to him within three weeks from the date of receipt of a copy of this judgment.

THOTTATHIL B. RADHKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = = = = = = = = = = = = = = = =

O.P.No.5405 of 2002-R

= = = = = = = = = = = = = = = = = = =

JUDGMENT

Dated: 14th June, 2007.